

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

<p>Leslie Tallman; Guy Greene; Anthony Garnett; Max Ortega; Lance Wickner; Steven Housman; Russell Norton; Russell Hatton; Kevin Moen, and all others similarly situated,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>Emily Johnson Piper, Commissioner of the Department of Human Services; Scott Benoit, Program Manager; Andrea Kosloski, Unit 1-B Director; Brian Ninneman, Unit I-C Director; Kevin Carlson, Assistant Group Supervisor; Ryan Fahland, Assistant Group Supervisor; Cara Keinanen, Security Counselor; Trisha Archambault, Security Counselor; Wendy McGowan, Security Counselor; and Cheryl Floren, Security Counselor,</p> <p style="text-align: center;">Defendants.</p>	<p>Case No. 16-cv-0653 (DWF/TNL)</p> <p style="text-align: center;">REPORT AND RECOMMENDATION</p>
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Plaintiffs in this matter did not pay the required filing fee, but instead applied for *in forma pauperis* (“IFP”) status. Those IFP applications were denied on the basis that plaintiffs collectively had sufficient funds to pay the required filing fee without being deprived of the necessities of life. *See* ECF No. 12. Plaintiffs appealed the denial of their IFP applications, but that appeal was overruled. *See* ECF. No. 15. On July 22, 2016, plaintiffs were ordered to pay the required filing fee within 20 days, failing which this action would be dismissed without prejudice for failure to prosecute. *See* ECF No. 16.

That deadline has now passed, and plaintiffs have not paid the required filing fee. In fact, Plaintiffs have not communicated with the Court about this case at all since the July 22, 2016 order requiring them to pay the required filing fee. Accordingly, this Court now recommends, in accordance with its prior order, that this action be dismissed without prejudice under Rule 41(b) for failure to prosecute. *See Henderson v. Renaissance Grand Hotel*, 267 Fed. App'x 496, 497 (8th Cir. 2008) (per curiam) (“A district court has discretion to dismiss an action under Rule 41(b) for a plaintiff’s failure to prosecute, or to comply with the Federal Rules of Civil Procedure or any court order.”).

RECOMMENDATION

Based on the foregoing, and on all of the files, records, and proceedings herein, IT IS HEREBY RECOMMENDED THAT this matter be DISMISSED WITHOUT PREJUDICE for failure to prosecute.

Dated: August 29, 2016

s/Tony N. Leung
Tony N. Leung
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), “a party may file and serve specific written objections to a magistrate judge’s proposed finding and recommendations within 14 days after being served a copy” of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All

objections and responses must comply with the word or line limits set forth in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.